

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

DONALD J. TRUMP,

Plaintiff,

V.

No. 19-cv-8694-VM

CYRUS R. VANCE, JR., in his official capacity  
as District Attorney of the County of New York;  
SOLOMON SHINEROCK, in his official capacity  
as Assistant District Attorney of the County of  
New York; and MAZARS USA, LLP,

Defendants.

**STATEMENT OF THE UNITED STATES  
IN SUPPORT OF TEMPORARY RESTRAINING ORDER TO ALLOW  
TIME FOR THE UNITED STATES TO CONSIDER WHETHER TO  
PARTICIPATE IN THIS PROCEEDING**

The United States respectfully supports the entry of a temporary restraining order, for the reasons set forth below, prohibiting the enforcement of the August 29, 2019 subpoena issued to Mazars USA LLP to preserve the status quo while the Court has the opportunity to receive a more complete presentation regarding the weighty constitutional issues raised by plaintiff's suit.

Pursuant to 28 U.S. § 517, the United States has the authority “to attend to the interests of the United States in [any] suit pending in a court of the United States.”

Plaintiff's complaint raises a number of significant constitutional issues that

potentially implicate the interests of the United States. *See, e.g.*, Complaint ¶¶ 10-24 (asserting that Article II, the Supremacy Clause, and the structure of the Constitution preclude subjecting a sitting President to state criminal process, including grand jury subpoenas directed at the President or his agents); *see generally* Office of Legal Counsel, *A Sitting President's Amenability to Indictment and Criminal Prosecution*, 24 O.L.C. Op. 222 (2000). In view of those constitutional issues and the federal interests that they may implicate, the United States is currently considering whether to participate in connection with the pending motion for a preliminary injunction.

The United States requires additional time to determine whether its participation in the case is warranted and, if so, to complete its review of the issues and provide the Court with a fully developed presentation on the constitutional questions presented. To the extent that enforcement of the subpoena may adversely affect federal interests of constitutional dimension, those effects could not be redressed after the fact. At the same time, a short stay of the subpoena's enforcement pursuant to a temporary restraining order would not appear likely to prejudice the investigation which gave rise to the subpoena.

If the Court issues a temporary restraining order, the United States will inform the Court and the parties no later than Tuesday, October 1 whether it intends to participate in connection with the pending motion for a preliminary injunction. In the event that the United States decides to participate, the United States will be prepared to do so no later than October 15, or in accordance with any schedule that may be

entered by the Court.

September 24, 2019

Respectfully submitted,

GEOFFREY S. BERMAN  
United States Attorney

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